

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 6:99-cr-60014-MC-1

v.

**STIPULATION AND ORDER TO
AMEND PREVIOUSLY-ENTERED
JUDGMENT**

PHILLIP MEDLEY BATES,

Defendant.

This matter is before the Court on defendant's motion to vacate or correct his sentence pursuant to 28 U.S.C. § 2255. Based on the Supreme Court's decisions in *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Welch v. United States*, 136 S. Ct. 1257 (2016), and the Ninth Circuit's decision in *United States v. Cisneros*, 826 F.3d 1190 (9th Cir. 2016), and having considered the factors under 18 U.S.C. § 3553(a) and the interests of justice, the parties agree that the judgment in this case should be amended to:

(1) delete references to the Armed Career Criminal Act and 18 U.S.C. § 924(e), and limit the description of defendant's conviction to felon in possession of a firearm in violation of 18 U.S.C. § 922(g);

(2) reduce the term of imprisonment from life to 120 months; and

(3) reduce the term of supervised release from five years to three years.

The parties further agree that all other aspects of the original judgment and commitment order, including the order of concurrency with the sentence in Lane County Circuit Court Case Number 209821090, should remain the same.

The parties further agree that no amendment to the statement of reasons is necessary given the parties' agreement.

Because the defendant is presently in state custody serving a state sentence that will not expire until 2043, no release plan is necessary at this time.

The defendant has consulted with counsel and agreed to waive his right to a re-sentencing hearing and allocution, and any right he may have to be present for the amendment of his sentence, and stipulates to the provisions above.

Based on the above, and the Court concurring,

IT IS HEREBY ORDERED that an amended judgment and commitment order shall be prepared and entered in accordance with the stipulation of the parties according to the terms set forth above.

IT IS FURTHER ORDERED that the Statement of Reasons shall not be amended.

Dated this 23 day of January, 2018.



HONORABLE MICHAEL J. McSHANE
UNITED STATES DISTRICT COURT JUDGE

Presented upon agreement of the parties by:

s/ Elizabeth G. Daily
ELIZABETH G. DAILY
Assistant Federal Public Defender
Counsel for Defendant

BILLY J. WILLIAMS
United States Attorney

s/ Frank R. Papagni, Jr.
FRANK R. PAPAGNI, JR.
Assistant United States Attorney